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Supreme Court of the United States.

OCTOBER TERM, A. D. 1895.

CALIFORNIA FIG SYRUP COMPANY, APPELLANT,

vs.

KATE GARDNER PUTNAM AND FRANCES D. HARDY, APPELLEES.

Brief of Appellant in Support of Petition for Writ of Certiorari.

F. W. LEHMANN,
PAUL BAKEWELL,
For the California Fig Syrup Company.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.



IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1895.

CALIFORNIA FIG SYRUP COMPANY, APPELLANT,

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KATE GARDNER PUTNAM AND FRANCES D. HARDY, APPELLEES.

Brief of Appellant in Support of Petition for Writ of Certiorari.

The California Fig Syrup Company is engaged in the manufacture and sale of a proprietary medicine known as Syrup of Figs.

It has been so engaged for many years and has at great expense built up a large business, and has and enjoys a good will that is exceedingly valuable.

Syrup of Figs is recognized by the medical profession to be a laxative of great merit, and it is prescribed by many leading physicians in the regular course of their practice.

Persons in different portions of the country have sought to avail themselves of the good will of the appellant's business, and they have made and sold medicine under the name

of Fig Syrup or Syrup of Figs, the public being induced to buy such medicine by the belief that it was the Syrup of Figs manufactured by the appellant.

The appellant has brought suit against such persons to restrain them from using the name Syrup of Figs or any colorable imitation of it to designate their medical compounds.

Among these suits was one against the Improved Fig Syrup Company in the northern district of California, in which this appellant prevailed, and it was held to have the right to the exclusive use of the name Syrup of Figs as a trade name for the medical compound made and sold by it. On appeal to the circuit court of appeals for the ninth circuit the decree of the circuit court was affirmed.

> Improved Fig Syrup Co. *vs.* California Fig Syrup Co., 7 U. S. Appeal Rep., vol. 1, of ninth circuit, p. 588.

Another of the suits so brought by appellant was the present one. It was brought in the district of Massachusetts. The circuit court held that appellant had no right to the exclusive use of the name Syrup of Figs as a trade name for the medical compound made and sold by it.

> California Fig Syrup Co. *vs.* Kate Gardner Putnam *et al.*, 66 Fed. Rep., 750.

On appeal to the circuit court of appeals for the first circuit the decree of the circuit court was affirmed.

> California Fig Syrup Company *vs.* Kate Gardner Putnam *et al.*, opinion verbatim, p. 5, petition for writ of certiorari.

Thus the holdings of the circuit courts of appeals for the first and the ninth circuits are directly opposed to each other.

Other cases by appellant to restrain competitors from using the name Syrup of Figs or any colorable imitation thereof to designate the medical compounds made and sold by them are pending in the courts of the fifth and sixth circuits of the United States.

We submit that under the circumstances the present case is a proper one for review by this Court "in the interest of jurisprudence and uniformity of decision."

In re Woods, 143 U. S., 202.
Lau Ow Bew, 144 U. S., 47–58.
Columbus Watch Co. *vs.* Robbins, 148 U. S., 267.

Respectfully submitted.

F. W. LEHMANN,
PAUL BAKEWELL,
For the California Fig Syrup Company.